Public Notice

US Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200550617
Date: March 31, 2006
Comments Due: April 18, 2006

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) and Utah Division of Water Quality are evaluating a permit application to construct the Banbury Court residential subdivision project, which would result in impacts to approximately 0.88 acres of waters of the United States, including wetlands, adjacent to the Fox Ditch, which shares a surface hydrologic connection with the Jordan River, a navigable-in-fact waterway with ties to interstate or foreign commerce. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at *http://www.spk.usace.army.mil/regulatory.html*.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and under Section 401 for water quality certification.

APPLICANT: Landform, LLC
Frank Ivory
1996 East 6400 South, Suite 120
Salt Lake City, Utah 84121

APPLICANT'S AGENT: Wise Earth
Harriet Whitson
Box 980994
Park City, Utah 84098
email: *wise@parkcityus.com*

LOCATION: The Banbury Court project site is located in Lehi at 2100 North Center Street in Lehi in Section 5, Township 5 South, Range 1 East, Utah County, Utah (SLB&M), and can be seen on the Lehi 7.5-minute USGS Topographic Quadrangle (Exhibit 1).

PROJECT DESCRIPTION: The applicant is proposing to construct a 19-lot, single-family, residential subdivision in the City of Lehi (Exhibit 2).

The proposed site is located in a gravel pit which has been abandoned for approximately 40 years. Gravel was extracted to the depth where the groundwater table was intercepted, and wetland vegetation and hydrology developed over time. The project area soils were

considered problem soils by the Corps. Hydric soil indicators such as low chroma soil colors and redoximorphic features were not observed in the delineation, but an aquic soil moisture regime was evident.
The proposed subdivision is in an area experiencing high growth, and the project site is already surrounded by residential development. The 0.88-acre wetland area would be filled with clean structural fill to an average depth of 4.5 feet, for an approximate fill volume of 6,390 cubic yards.

Water draining off the wetland is problematic as well. Excess water drains from the old gravel pit through a drain piped under 2100 North into the Fox Ditch. Additionally, water drains through the coarse sediments, beneath 2100 North and occasionally floods basements downslope of the gravel pit. The City of Lehi sees this project as an opportunity to address these subsurface water problems for adjacent residences. Lehi will require Landform, LLC to install a subsurface drainage system. The surrounding community strongly supports the installation of these drains to entirely de-water the project area wetlands.

Project Purpose: Based on the available information, the overall project purpose is to construct a residential subdivision of single-family homes in the Lehi, Utah County. The applicant believes there is a need for this project because the site is within an area experiencing high growth. Lehi is a rapidly growing community, and new residential development is justified based on current market demands. The project parcel is surrounded by residential development.

The project has a secondary purpose as well: to install a subsurface drainage system that would protect existing homes, adjacent to the project area, from flooding. Water has drained offsite through the gravel pit substrate and into the basements of adjacent homes, causing substantial property damage. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The site is located in near-shore deposits laid by ancient Lake Bonneville and alluvial deposits from the Dry Creek. Approximately 0.88 acre of palustrine, emergent wet meadow wetlands are present within the project area. Wetlands were created when the gravel pit on the property was excavated and abandoned. Water discharges from the northern portion of the site at the headwall of the gravel pit. High groundwater has promoted the development of a hydrophytic plant community (dominated by Baltic rush and inland saltgrass), wetland hydrology, and hydric soils (evidenced by substrate displaying an aquic soil moisture regime). For the most part, water drains through a pipe exiting the southeast corner of the property into the Fox Ditch. Water is also conveyed south through the coarse lacustrine/riverine sediments beneath 2100 North, which has flooded downslope homes with basements. Exhibit 1 illustrates the project area location.

It is the applicant's understanding that this gravel pit was used by the Utah Department of Transportation an early phase of Interstate 15 construction. The gravel pit was excavated to the depth of the groundwater table and abandoned in the 1960s. The project site is located in a residential area. To date, the site has been abandoned and has been used for illegal dumping.

Alternatives. The applicant has provided information concerning project alternatives.

No Build Alternative: The No Build Alternative would leave the site in its current state, with groundwater discharging into the basements of adjacent homes. The site likely would continue to be used as an illegal dumping site.
Partial Build Alternative: A partial build subdivision configuration that would leave all or part of the wetland undisturbed would not preserve wetland habitat. Subsurface drainage would be necessary, and the remaining wetlands would be indirectly impacted by this alternative.

Build the Project at Another Location: The developer has explored other sites suitable for development and previously was able to choose sites without waters of the U.S., including wetlands. Most of the local area has been developed in recent years, to the extent that parcels without development constraints are not locally available.
Alternate Fill Configuration with Proposed Project: The need to fill the entire wetland area is driven in

part by topography. The wetland is at the toe of a steep cut slope and grades across the parcel are highly variable due to prior operation of the gravel pit. To achieve feasible topography for the site plan, fill and grading would substantially impact wetlands. The indirect effects of installing subsurface drainage would also occur under this alternative.

Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives will be considered, in particular those which may be less damaging to the aquatic environment.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to purchase wetlands on the north shore of Utah Lake and preserve them at a ratio of approximately 10:1 (preservation:impact) (Exhibit 3). The preservation parcel will be suddivided from a larger parcel and the preservation area will be fenced on the north side to separate it from the pasture to the north. The south, west, and east portions of the preservation area will not be fenced to maintain contiguity with the surrounding wetland habitat. Deed restrictions for the preservation area will be recorded with Utah County, per the Corps' standard restrictions for wetland mitigation areas.
Typically, the Corps does not prefer preservation as the primary means for mitigating wetland impacts. However, this mitigation proposal merits consideration because the wetlands are adjacent to Utah Lake and warrant preservation due to the rapid growth of the City of Lehi.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality, is required for this project. The Utah Division of Water Quality intends to issue certification, provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (nonpoint sources) of wastes which will occur only during the actual construction activity and where best management practices will be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Mr. William O. Moellmer, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **May 1, 2006**. The need for other local, state, and federal authorization has not been identified at this time.

HISTORIC PROPERTIES: Based on the available information, cultural resources are not within the project's area of potential effect because the project area is a gravel pit excavated in the last 50 years. This fact eliminates the need for Section 106 consultation and coordination with the Utah State Historic Preservation Office.
ENDANGERED SPECIES: The project will not likely affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's

impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200550617, must be submitted to the office listed below on or before **April 18, 2006**:

James McMillan, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: james.m.mcmillan@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant's agent or the Corps' project manager James McMillan, telephone 801-295-8320, extension 17, *james.m.mcmillan@usace.army.mil*.

Attachments:
Exhibit 1 - Project Location Map
Exhibit 2 - Project Plans and Wetland Impacts
Exhibit 3 - Preservation Area
Exhibit 4 - Color Aerial of the Project Area